

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 12TH APRIL 2007 / 22ND CHAITHRA 1929

Crl.MC.No. 699 of 2007()

CRRP.33/2005 of I ADDL. SESSIONS COURT, KOLLAM

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PETITIONER: PETITIONER/ACCUSED

K.USHAMMA,SREEBHAVAN,KANNIMAL CHERRY,
PATTATHANAM,VADAKKEVILA,KOLLAM REPRESENTED BY THE
POWER OF ATTORNEY HOLDER,K.S.BINOY KUMAR,SREE
KANTAM,KANNIMEL CHERRY,MANGAD,KILLIKOLLUR,KOLLAM.

BY ADV. SRI.RAJA VIJAYARAGHAVAN
SRI.M.T.SURESHKUMAR

RESPONDENTS: RESPONDENTS.COMPLAINANT AND STATE

1. PRABHA KUMARI,W/O.V.PRABHULLA CHANDRAN
NAIR,DEEPU NIVAS,KULAVIKONAM,NEDUMANGADU,
THIRUVANANTHAPURAM.
2. STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR,HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 12/04/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J

Crl.M.C.No.699 of 2007

Dated this the 12th day of April, 2007

ORDER

Memo is served on the respondent's counsel. There is no appearance. I am satisfied that the service is sufficient.

2. I have heard the learned counsel for the petitioner. The petitioner is the complainant in a prosecution under Section 138 of the Negotiable Instruments Act. The learned Magistrate had found the accused guilty and had sentenced the accused. The accused had preferred an appeal. The petitioner also preferred a revision against the sentence imposed. The petitioner was expecting that the appeal and the revision petition shall be taken up together for consideration; but the learned Magistrate on one date of posting, holding that there is no representation for the petitioner, proceeded to dismiss the revision petition.

3. The petitioner is aggrieved by such dismissal of his revision petition. I find merit in the grievance raised by the petitioner. A revision petition, in which records have been called for, has got to be disposed of only on merits by the learned First Additional Sessions Judge. That has not been done. Appeal against the impugned judgment is pending before the learned Magistrate also. In these circumstances, I am satisfied, that the impugned order does

warrant interference by invocation of the extraordinary inherent jurisdiction available to this Court. There has been no proper disposal and the disposal does inevitably result in injustice.

3. This Crl.M.C is, in these circumstances, allowed. The impugned order is set aside. The learned First Additional Sessions Judge is directed to dispose of Crl.R.P No.33 of 2005 afresh in accordance with law along with Crl.Appeal No.457 of 2006, which is also pending before the same court against the same order.

(R.BASANT, JUDGE)

rtr/-